

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BOOKER T. SHIPP,

Plaintiff,

ORDER

v.

Case No. 17-cv-955-jdp

DR. ROBERT HOBDAY,

Defendant.

In an order entered on December 27, 2017, the court granted plaintiff Booker T. Shipp leave to proceed *in forma paupers* and assessed plaintiff an initial partial filing fee in the amount of \$20.24. In that order, plaintiff was told that if he did not have enough money to pay the initial partial filing fee payment from his regular account, he may make arrangements with institution officials to pay the initial partial filing fee from his release account. Now plaintiff has filed a motion asking to amend the December 27 order to be allowed to pay the entire \$350 filing fee from his release savings account pursuant to DAI policy 309.45.02.

There is no federal law permitting this court to require state officials to submit the entire filing fee or other litigation costs by accessing a prisoner's release account funds. It is only when a prisoner's general account has insufficient funds to pay an initial partial filing fee payment that the Prisoner Litigation Reform Act ("PLRA") permits this court to order an institution to access a prisoner's release account funds to satisfy that payment. *See Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005) ("[N]othing in the fee collection provision of § 1915 can be read as requiring the state to allow a prisoner to pay off the balance of a federal court filing fee from money carried over several months in his release account"). Accordingly, plaintiff's motion to pay the entire filing fee from his release

savings account will be denied. However, plaintiff will be provided an extension of time until January 25, 2018 to submit the \$20.24 initial partial filing fee.

ORDER

IT IS ORDERED that,

1. Plaintiff Booker T. Shipp's motion for use of release account funds to pay the entire filing fee in this case (dkt. #5) is DENIED.
2. Plaintiff may have until January 25, 2018 to submit a check or money order made payable to the clerk of court in the amount of \$20.24 or advise the court in writing why he is not able to submit the assessed amount on or before January 25, 2018.
3. If, by January 25, 2018, plaintiff fails to make the \$20.24 payment or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.

Entered this 5th day of January, 2018.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge